

STEPHANIE M. HINDS (CABN 154284)
United States Attorney

THOMAS A. COLTHURST (CABN 99493)
Chief, Criminal Division

MICHAEL G. PITMAN (DCBN 484164)
Assistant United States Attorney
150 Almaden Boulevard, Suite 900
San Jose, CA 95113
Telephone: (408) 535-5040
Facsimile: (408) 535-5081
Email: michael.pitman@usdoj.gov

COREY J. SMITH (MABN 553615)
Senior Litigation Counsel
United States Department of Justice
Telephone: (202)514-5230
Email: corey.smith@usdoj.gov

Attorneys for United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARLOS E. KEPKE,

Defendant.

Criminal No. 3:21-CR-00155-JD

UNITED STATES' MOTION TO DISMISS
INDICTMENT AND SUGGESTION OF
DEATH UPON THE RECORD AND
[PROPOSED] ORDER

The United States of America respectfully moves the Court for an order dismissing the indictment in this matter. The Government suggests the death of Defendant Carlos Kepke during the pendency of this action. Defendant was charged in this matter with one count of conspiracy to defraud the United States under 18 U.S.C. § 371 (Count 1) and three counts of aiding and assisting in the preparation of materially false tax returns under 26 U.S.C. § 7206(2) (Counts 2 – 4). Trial on all counts was scheduled to begin with jury selection on November 28, 2022. The Government has received the following evidence that Defendant is deceased: On November 28, 2022, counsel for Defendant appeared before the Court and represented that Defendant passed away on November 27, 2022; and the Houston

Police Department and the Medical Examiner for Harris County, Texas, have both issued preliminary reports indicating that Defendant died in Houston, Texas, on November 27, 2022.

DATED: December 8, 2022

Respectfully submitted,

STEPHANIE M. HINDS
United States Attorney

Thomas A. Colthurst

THOMAS A. COLTHURST
Chief, Criminal Division

[PROPOSED] ORDER

Based upon the facts set forth in the United States' Motion to Dismiss, and for good cause shown, IT IS HEREBY ORDERED that the Government's Motion is granted, and this matter is hereby dismissed.

SO ORDERED this ____ day of _____ 202__.

THE HONORABLE JAMES DONATO
UNITED STATES DISTRICT JUDGE